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## **Therapeutic Courts Impacts from COVID**

*A survey report on changing court practices in response to COVID-19 in Washington State Therapeutic Courts*

**Board for Judicial Administration  
Court Recovery Task Force  
Therapeutic Courts Committee**

**December 2020**

## Introduction

In the spring of 2020, the Board for Judicial Administration (BJA) launched the Court Recovery Task Force to assess current court impacts from COVID-19; develop and implement strategies to ensure that every court can provide fair, timely, and accessible justice; and provide recommendations for ongoing court operations and recovery after the public health emergency subsides.

The BJA Court Recovery Task Force Therapeutic Courts Committee surveyed Washington therapeutic courts' responses to COVID-19 to date to (1) better understand court processes that have been impacted by COVID-19, and (2) determine ongoing needs of the courts. Information about current practices will also help the Task Force identify innovations that may inform best practices going forward.

## Survey Methodology

For the purposes of the survey and summary, the term therapeutic court refers to any court that is considered a therapeutic, treatment, problem-solving, non-traditional, specialty, community, veteran, or any other type of court that has a specific focus.

A survey was sent to presiding judges across Washington. There are approximately 92 therapeutic courts across the State. While there were only 37 responses to the survey, courts were directed to answer only one survey for multiple therapeutic courts in their jurisdictions, if there were similar experiences among the courts. Other jurisdictions provided separate court responses for therapeutic courts that had varied experiences.

There are many different types of therapeutic courts in Washington State — drug court, family treatment court, driving under the influence court, mental health court, veterans' court, community court, domestic violence court, girls' court, and human trafficking court.

## Survey Highlights

- One hundred percent (**100%**) of courts reported that they were able to continue some form of their court during COVID-19.
- About **75%** of the therapeutic courts have embraced the use of video or telephone for all or most of their hearings over the past 10 months.
- Predominate difficulties facing therapeutic courts during COVID-19:
  - Testing for drugs and alcohol — **86%**
  - Providing rehab and community services to participants — **73%**
  - Defendants' ability to engage in treatment sessions — **73%**
  - Funding issues — **33%**
- Most courts (94%) reported that the use of video platforms (Zoom, etc.) were effective or very effective for hearings and team member staff meetings.

Courts reported a variety of impacts from COVID-19 which were often dependent on the court size and location, access to technology and community services, and whether the participant was a new or ongoing therapeutic court user.

### Positive impacts reported by therapeutic courts

- **Therapeutic courts continued to operate and have been very creative.**  
One court shared, *“the team has been much more creative with recommendations and responses for both incentives and sanctions and drastically reduced the use of jail as a response.”*
- **Most courts have embraced video conferencing for hearings and team meetings and will likely continue using this format post COVID-19.**  
Courts reported: *“Graduations have moved to Zoom and have become more intimate and meaningful, which is surprising. One participant had his family in Mexico call in and his SO interpreted his comments to the Court afterwards;”* and *“Seeing people at home or on the job site via Zoom gives us a better sense of their lives. We get to meet their children and animals and see their workplaces.”*
- **Access to courts and some services improved.** Some courts reported better attendance to hearings and treatment sessions, reduced travel time, and less work conflicts as a result of online options. One court reported that *“Zoom court hearings have allowed some participants to open up easier and share in court and in treatment sessions.”*

### Negative impacts reported by therapeutic courts

- **Courts have experienced a drop in entry and completion rates.**
  - 85% of courts reported a decrease or significant decrease in entry rates.
  - Courts reported higher failure rates among participants during COVID-19 than prior to COVID-19.
- **Courts have experienced a significant sense of loss of community with participants.** Given the collaborative nature of therapeutic courts, while courts generally felt little to no change in their relationship with justice partners, nearly **80%** of courts believed that that COVID-19 had created a negative to very negative effect on the sense of community between participants and justice system partners. Courts reported that some participants may feel isolated and disconnected with the court process and community services.
  - *“The cancellation of in-person hearings, but in particular, in-person treatment sessions has led to some of our participants feeling disconnected to the program.”*
  - *“Isolation has proven to be a challenge to sobriety and mental health issues for some.”*
- **Technology barriers such as privacy and access to devices and wireless service exist for some participants.** While remote options have proven effective

in many circumstances, courts reported that the use of the phone by itself is not effective for therapeutic court hearings. Reasons for this include: participants without adequate technology resources, concerns about security and privacy with online treatment sessions, and decreased peer interactions.

- **Testing (UA's, etc.) remains challenging due both to cost and availability.**

### **Changes therapeutic courts want to keep post COVID-19**

- Continued video and remote options for hearings, especially when participants cannot travel or would otherwise be unavailable for court, staff and team meetings, case management, and treatment services.
- Increased creativity in the sanction process.

### **Changes that could benefit therapeutic court participants**

- Financial assistance or contracting for UA testing and transportation.
- Better access to WIFI and internet access.
- Increased options for participants to connect better with each other outside of court activities and treatment.
- Increased access to mental health treatment, housing, and transportation.

### **Recommendations**

- 1) Explore funding for substance abuse testing and treatment.
- 2) Explore funding for technology (both devices and service) and community locations that can provide access to a secure computer and wireless service.
- 3) Actively remind public defenders/private bar and prosecutors that therapeutic courts are open and available for hearings and services.
- 4) Explore options for courts to share information about what is working and not working, resources, etc. such as a drop box or similar format.
- 5) Identify community services that can be utilized during COVID-19 restrictions to engage participants in their court plan and help increase success rates.
- 6) Identify what participants can realistically do given some of the impacts from COVID-19 and the reasons for decreasing success rates.
- 7) Identify reasons for decreased entry rates into therapeutic courts and action items to address these.